

Worksession

Agenda Item #	8
Meeting Date	2 May 2005
Prepared By	Sara Anne Daines HCD Director
Approved By	Barbara B. Matthews City Manager

Discussion Item	Discussion of Cooperative Agreement with Montgomery County - Community Development Block Grant (CDBG) Program
Background	<p>Every three years the City is required to renew its Cooperation Agreement with Montgomery County's Department of Housing and Community Affairs. The Agreement provides for the continuation of the City's participation in the County's Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) programs. Funding is available from the US Department of Housing and Urban Development (HUD).</p> <p>The CDBG program has provided flexible funding for a variety of projects including but not limited to property acquisition, housing rehabilitation, commercial revitalization, and human service projects. HOME program provides funding for the affordable housing programming benefitting persons with low- and moderate-incomes.</p> <p>The City has received, on average, \$167,000 per year as a result of its participation in the County administered CDBG program. Recent projects benefitting from CDBG funds include the Takoma Park Boys and Girls Club, CSAFE, Columbia Union College's Elderly Health Care Initiative, and the Takoma Park Family Resource Center.</p> <p>If the Council were to elect to terminate this participation, the City could apply, on a competitive basis, for CDBG funds for eligible projects through the Maryland Small Cities program.</p> <p>If the Council wishes to continue its participation in the County's program, a resolution authorizing the execution of the accompanying Cooperation Agreement must be approved no later than June 7, 2005.</p>
Policy	To maximize funding resources available for programming which benefits the community.
Fiscal Impact	<p>Funding for the continuation of the Community Development Block Grant (CDBG) remains uncertain at this time as federal funding for the program has been eliminated from HUD's budget. Further proposals under consideration include the consolidation and restructuring of several HUD programs. If approved, CDBG funds would administered by the US Department of Commerce.</p> <p>If either proposal is implemented at the federal level, CDBG funding for Takoma Park would be reduced and/or eliminated.</p>

Attachments	Transmittal Letter from Elizabeth Davison Notice of Intent Original Cooperation Agreement Map/Listing of Participating Jurisdictions
Recommendation	To consider the City's continued participation in the County's CDBG and HOME Programming
Special Consideration	Resolution authorizing the execution of the accompanying Cooperation Agreement is to be considered by the Council on May 9, 2005

RECEIVED
APR 14 2005
Office of the County Executive



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Douglas M. Duncan
County Executive

Elizabeth B. Davison
Director

March 16, 2005

Daines

Mr. Richard M. Finn, City Administrator
City of Takoma Park
7500 Maple Avenue
Takoma Park, MD 20912

Dear Mr. Finn:

Each year, Montgomery County receives approximately \$8,000,000 in federal funding from the U.S. Department of Housing and Urban Development (HUD) through the Community Development Block Grant (CDBG) and the HOME Investment Partnerships Program (HOME). These two grant programs provide an invaluable source of funding for a variety of neighborhood revitalization and housing programs that improve the lives of Montgomery County residents.

The CDBG program provides a flexible source of funds for a variety of community projects primarily aimed at benefiting people with low-and moderate-incomes. Some of the specific activities that can be carried out with CDBG funds include the acquisition of real property, rehabilitation of houses and buildings (including accessibility modifications for persons with disabilities), provision of public facilities and commercial revitalization improvements (such as streetscaping), economic and job creation activities, and human service projects (such as job training and health care). The HOME program provides funds to acquire, rehabilitate, construct, renovate, or subsidize housing affordable to people with low- and moderate-incomes.

In 2002, the City of Takoma Park chose to continue its participation with the County in these programs, thereby helping to bring more funds into the county and allowing residents of your City to be served under these programs. Every three years, according to HUD's guidelines, each municipality in Montgomery County must choose whether or not it wishes to continue its participation with the County in these programs. It is now time for the City to decide if it wishes to participate for another three years (federal fiscal years 2005-2008).

According to Requirement 6 of the cooperation agreement currently in effect between the County and the City, the agreement will be automatically renewed for another three-year period unless the City elects not to participate. If the City of Takoma Park chooses to terminate its participation with the County in the CDBG and HOME programs, HUD requires that you notify



Office of the Director

Mr. Richard M. Finn, City Administrator
March 16, 2005
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both HUD and the County in writing of that decision no later than May 2, 2005. A municipality that elects to be excluded from Montgomery County's program may still apply independently for Small Cities CDBG funds from the Maryland Department of Housing and Community Development.

If the City discontinues its participation in these programs, the County cannot undertake federally-funded activities within your municipal limits, including programs such as housing rehabilitation loans for the elderly, commercial revitalization activities and accessibility modification loans for persons with disabilities.

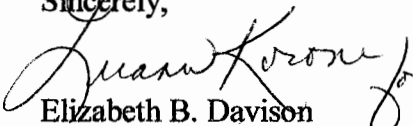
I have included a "Notice of Intent" form so that you may indicate your jurisdiction's decision regarding its participation in these programs. I have also included a copy of the original cooperation agreement between the County and the City of Takoma Park, and a map showing the jurisdictions that currently participate in the programs.

Once the City has made a decision regarding its participation in the CDBG and HOME programs, please complete the Notice of Intent and return it to the following address no later than May 2, 2005:

Angela Dickens
Department of Housing and Community Affairs
Federal Programs Section
100 Maryland Avenue, Fourth Floor
Rockville, MD 20850

If you have any questions or would like to schedule a visit to discuss your participation in these programs, please contact Luann Korona or Angela Dickens at (240) 777-3600.

Sincerely,


Elizabeth B. Davison
Director

EBD/aed

Enclosures:

- 1 Notice of Intent
- 2 Original Cooperation Agreement
- 3 Map/List of Participating Jurisdictions

NOTICE OF INTENT

Regarding Participation with Montgomery County for the Purposes of Receiving CDBG and HOME Funds

Please indicate your municipality's decision by checking one of the statements below. This Notice of Intent will be forwarded to HUD in compliance with federal requirements.

I. For Municipalities that currently participate in the CDBG and HOME Programs:

Your municipality currently has a signed cooperation agreement with Montgomery County that will automatically renew for another three-year period (Federal fiscal years 2005 through 2008). If you wish to terminate your participation, please check below, sign the form, and return it by May 2, 2006. If your municipality chooses to continue its participation, you do not need to return this form.

- ☐ Our municipality wishes to **terminate** its participation in the County's CDBG and HOME programs. We understand that the Cooperation Agreement will not be renewed.

II. For Municipalities that do not currently participate in the CDBG and HOME Programs:

- ☐ Our municipality **is interested** in opting into Montgomery County's CDBG and HOME programs. We will forward a signed Cooperation Agreement to the County by the June 15, 2006 deadline.
- ☐ Our municipality **is not interested** in opting into Montgomery County's CDBG and HOME programs. We understand that this Notice of Intent will be provided to HUD in compliance with federal requirements.

Name (please print)

Signature

Title

City/Town/Village

Address

Telephone Number

Please submit this Notice by **May 2, 2006**. You may fax it to us at (240) 777-3653, but please also mail an original copy to Angela Dickens in Federal Programs Section at the address below. Thank you.

COOPERATION AGREEMENT

THIS AGREEMENT, entered into this _____ day of _____, 2005 by and between MONTGOMERY COUNTY, MARYLAND (hereinafter referred to as the "County"), and the Town of _____ (hereinafter referred to as the "Municipality").

PURPOSE

The U.S. Department of Housing and Urban Development (HUD) requires the County to enter into a Cooperation Agreement with local governments indicating their participation in the Community Development Block Grant Program (CDBG) and the HOME Investment Partnerships Program (HOME). Title I of the Housing and Community Development Act of 1974, as amended, authorizes the Community Development Block Grant (CDBG) Program. Montgomery County, Maryland, qualifies under this law as an "Urban County" and is eligible to receive CDBG funds. The HOME program is authorized under Title II of the National Affordable Housing Act of 1992. Montgomery County qualifies as a participating jurisdiction (PJ) for the purpose of receiving HOME funds in accordance with 24 CFR, part 92, Subpart C.

The CDBG and HOME programs are the two principal mechanisms by which federal assistance to local governments is to be made available to undertake essential community development activities. In accordance with Title I, as amended, a majority of CDBG funds must benefit low- and moderate- income persons. **The percentage of funds that must benefit low-and moderate-income persons is subject to change (presently this is 70 percent).** HOME and CDBG funds can only be used within unincorporated portions of the County and within municipalities who have executed a Cooperation Agreement with the County.

Parts 570 and 92 of Title 24 of the Code of Federal Regulations, set forth regulations governing the availability and use of funds under the CDBG and HOME programs. These Parts provide that the County may include the populations of local governments in the Urban County or PJ with which it has entered into Cooperation Agreements for qualification and grant calculation purposes. Essential community development and housing activities will be generally funded from annual CDBG and HOME Federal fiscal years 2006, 2007, and 2008 (Montgomery County fiscal years 2005, 2006, and 2007) appropriations, and from any program income generated from the expenditure of such funds.

Section 570.307 of the Code of Federal Regulations requires a three-year qualification period for Urban Counties and any cooperating local governments. It is in the interest of the Municipality to have its population counted together with that of the unincorporated areas of the County and that of other local governments within the Urban County that agree to participate.

REQUIREMENTS

- 1) The County is hereby authorized to certify to the Secretary of the United States Department of Housing and Urban Development that the population of the Municipality may be included with that of the County for purposes of calculating funds to be made available to the County under Title I of the Housing and Community Development Act of 1974, as amended, and under Title II of the National Affordable Housing Act of 1992, as amended.
- 2) Beginning on July 1, 2006, and subject to the federal release of funds, the Municipality will have the option to receive that portion of CDBG funds it contributes to the County's total allocation as a result of its population, provided that its share is determined by the County,

pursuant to the HUD formula, to be at least \$25,000. The Municipality may also submit housing projects for funding under the HOME program.

If the CDBG allocation is at least \$25,000, it will be passed on directly to the Municipality, using a written agreement as required by 24 CFR 570.503 and in accordance with the adopted procurement regulations of Montgomery County. The County's Department of Housing and Community Affairs, or any successor department, will review the Municipality's proposals for spending the funds and will confirm that the requests are eligible for CDBG funding and are in compliance with federal regulations covering the program.

The Municipality must conduct a public hearing to receive citizen input on the use of these "pass-through" funds. In the event the Municipality has additional projects it wishes funded beyond the amount of its "pass-through" funds, those projects will be considered in competition for funds with all other proposals submitted to the County by other applicants.

HOME funds will not be passed through to the Municipalities. Requests for HOME funds will be reviewed in accordance with departmental procedures with regards to funding of housing projects.

3) A Municipality whose formula contribution is less than \$25,000 will not qualify for the "pass-through" option. Those Municipalities, as well as any Municipalities, which choose not to take "pass-through" funding, will be eligible for funding on a project-by-project basis, in competition with all other proposals submitted to the County by other applicants.

These proposals will be reviewed for content and eligibility by the staff of the County's Department of Housing and Community Affairs, or any successor department, and the County's Community Development Advisory Committee. These proposals will be reviewed in accordance with the County's annual budget process, and if successful, the County will enter into an

agreement with the Municipality in accordance with the adopted procurement regulations of Montgomery County and 24 CFR 570.503.

Requests for HOME projects will be reviewed in accordance with departmental procedures with regard to funding of housing projects.

4) The County and the Municipality agree to cooperate to undertake, or assist in undertaking, community renewal and lower income housing assistance activities, specifically urban renewal and publicly assisted housing, and such activities, if eligible, may be funded from annual CDBG and HOME allocations from Federal fiscal years 2006, 2007, and 2008 appropriations and from program income generated from the expenditure of such funds.

CDBG and HOME funding by the County is expressly prohibited for activities or projects in, or in support of, a Municipality that impedes the County's actions to comply with the County's fair housing certifications.

5) The County has created a Consolidated Plan as required by 24 CFR Part 91. This Plan, which is updated annually, sets community development goals and priorities for Montgomery County.

The Municipality shall not by this Agreement have a right of veto or otherwise restrict implementation of the approved Consolidated Plan during the term of this Agreement or for such additional time as may be required for the expenditures of funds granted to the Municipality under the term of this Agreement.

6) The term of this Cooperation Agreement shall be for three (3) years, commencing on July 1, 2005 and terminating on the later of: (a) June 30, 2008; or (b) the date on which all funded activities have been completed. The Terms of this Agreement are subject to the appropriation and availability of funds, including but not limited to any federal, state or local grant program or

other funding mechanism. Neither party may withdraw from or terminate this Agreement during the term of this Agreement unless funding is not appropriated or available.

The Agreement will be automatically renewed for each successive three year qualification period, unless the County or the Municipality provides written notice to the other party that it elects not to participate in a new qualification period. The County will notify the Municipality in writing of its right to make such election prior to each subsequent three year period.

Failure by either the County or the Municipality to adopt an amendment to the Agreement incorporating all changes necessary to meet the requirements for Cooperation Agreements set forth in the Urban County Qualification Notice from HUD applicable for a subsequent three year Urban County qualification period, and to submit the amendment to HUD as provided in the Urban County qualification notice, will void the automatic renewal for such qualification period.

7) The Municipality shall submit by June 7, 2005, or such other date as is required by HUD, a resolution by the governing body empowering the Chief Executive Officer of the Municipality to execute this Cooperation Agreement on behalf of the Municipality.

8) The Municipality shall comply with the non-discrimination in employment policies in County contracts, as required by Sections 11B-33 and 27-17, Montgomery County Code, 1994, as amended.

The County and the Municipality agree that they will take all actions necessary to assure compliance with the County's certifications as required by Section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended, including Title IV of the Civil Rights Act of 1964, the Fair Housing Act, Section 109 of Title I of the Housing and Community

Development Act of 1974, as amended and other applicable laws. These include, but are not limited to, Section 504 of the Rehabilitation Act of 1973, as amended; Executive Order No. 11246, as amended; Public Law 88-352 and Public Law 90-284; Executive Order 11063 as amended by Executive Order 12259; Title VIII of the Civil Rights Act of 1968; Title VI of the Civil Rights Act of 1964; Section 202(a) of the Flood Disaster Protection Act of 1973; Section 210 of the Uniform Relocation Assistance Policies Act of 1970, as amended; Section 3 of the Housing and Urban Development Act of 1968, as amended; and the Lead-Based Paint Poisoning Prevention Act.

The Municipality certifies that it has adopted and will enforce policies prohibiting excessive force within the jurisdiction against individuals engaged in non-violent civil rights demonstrations and will enforce state and local laws against physically barring entrance to or exit from facilities subject to non-violent civil rights demonstrations.

9) The Municipality shall comply with the requirements of the Office of Management and Budget Circular Nos. A-102, Revised, A-110, A-87 and A-122, when carrying out CDBG or HOME funded projects.

10) Consistent with the national goal of expanding the opportunities for minority business enterprises, the Municipality is encouraged to use minority banks (a bank which is at least 50 percent owned by minority group members).

11) Pursuant to 24 CFR 570.501 (b), and 24 CFR 92, the Municipality and the County are subject to the same requirements applicable to subrecipients, including the requirement of written agreements as set forth in 24 CFR 570.503 and in 24 CFR 92.504. Such written agreements shall be done in accordance with County regulations.

12) Pursuant to the requirements of Montgomery County Code 1994, Chapters 11B and 19A, Notice is hereby given as follows:

A) Any public employee who has or obtains any benefit from any contract with any person transacting business with the County in which the public employee has an interest, financial or otherwise, must report such benefit to the Ethics Commission. In the event that such public employee knows or should have known of such benefit, and fails to report such benefit to the Ethics Commission, he or she shall be in violation of the ethical standards of this Article. However, this provision shall not apply to a contract with a business entity where the employee's interest in the business has been placed in an independently managed trust.

B) It is unlawful for any person to offer, give or agree to give to any public or former public County employee or for any public or former employee to solicit, demand, accept or agree to accept from another person, gifts for or because of:

- (1) an official public action taken, or to be taken or which could be taken;
- (2) a legal duty performed or to be performed, or which could be performed; or
- (3) a legal duty violated or to be violated, or which could be violated by such public or former public employee. It is unlawful for any payment, gift, or benefit to be made by or on behalf of a subcontractor or higher tier subcontractor or any person associated therewith as an inducement for the award or subcontract or order.

C) Unless authorized under Section 11B-52 or Chapter 19A of the Montgomery County Code, it is unlawful for any person transacting business with the County to employ a County public employee for employment contemporaneous with his or her public employment.

13) The Municipality must inform the County of any income generated by the expenditure of CDBG or HOME funds it receives. Any CDBG program income must be paid to the County provided, however, the Municipality may retain the program income if it has submitted a written agreement approved by the County in accordance with 24 CFR 570.503 and subject to requirements set forth in this Agreement. Any program income the Municipality is authorized to retain may only be used for eligible activities in accordance with all CDBG requirements as may then apply.

Program income or repayment of funds generated by the HOME program will be paid into the County's HOME account in accordance with 24 CFR, Section 92.500.

The County has the responsibility for monitoring and reporting to HUD on the use of any such program income, thereby requiring appropriate recordkeeping and reporting by the Municipality as may be needed for this purpose. In the event of close-out or change in status of the Municipality, any program income that is on hand or received subsequent to the close-out or change in status shall be paid to the County.

14) If the Municipality uses CDBG or HOME funds to pay for any of the costs of acquiring or improving real property that is within its control, the Municipality agrees to notify the County in a timely manner of any modification or change in the use of the real property from that planned at the time of acquisition or improvement, including disposition. The Municipality agrees to reimburse the County in an amount equal to the current fair market value (less any portion thereof attributable to expenditures of non-CDBG or HOME funds) of property acquired or improved with CDBG or HOME funds that is sold or transferred to a use which does not qualify under the CDBG or HOME regulations.

The Municipality will treat as program income the proceeds generated from the disposition or transfer of such property prior to or subsequent to the close-out, change of status or termination of the Cooperation Agreement between the County and the Municipality.

15) The County has final responsibility for selecting activities under the CDBG and HOME programs and annually filing Action Plans and Program Descriptions with HUD.

The Municipality understands that by executing this Cooperation Agreement it may not apply for grants under the Small Cities or State CDBG programs from appropriations for fiscal years during the period in which it is participating in the Urban County's CDBG or HOME programs.

It also may not participate in a HOME consortium except through the Urban County, regardless of whether the Urban County receives a HOME formula allocation or not.

16) The County Council of Montgomery County, Maryland, has approved the execution of Cooperation Agreements on behalf of Montgomery County by Resolution enacted the 1st day of January 1975, and the governing body of the Municipality has approved the execution of this Agreement by Resolution enacted the ____ day of _____, 2005.

17) The terms and provisions of this agreement are fully authorized under State and local laws which provide full legal authority for the County to undertake or assist in undertaking essential community development and housing assistance activities, specifically urban renewal and publicly assisted housing.

MONTGOMERY COUNTY, MARYLAND

Signature

Printed Name

Title

Date

I hereby affirm that the above named person
is empowered to sign contractual agreements
for the municipality.

Signature

Title

Date

Douglas M. Duncan
County Executive

Date _____

Recommended by:

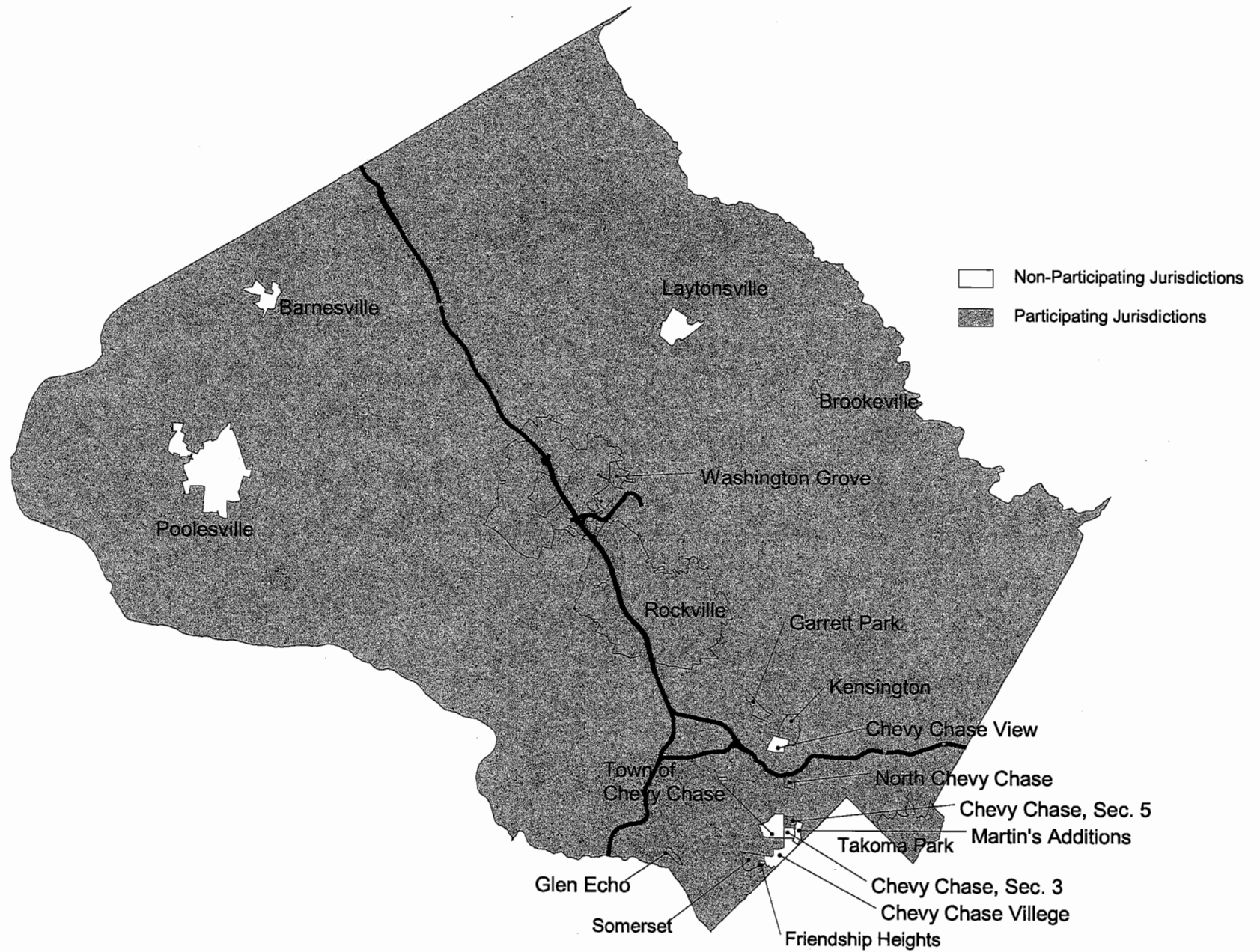
Elizabeth B. Davison, Director
Department of Housing and Community Affairs

Date _____

APPROVED AS TO FORM AND
LEGALITY:

Assistant County Attorney
County Attorney's Office

Date _____



MAP PRODUCED BY:
DHCA--COMMUNITY DEVELOPMENT DIVISION
MONTGOMERY COUNTY

